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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

Federal Communications Commission
Office of Secretary

In the Matter of

Billed Party Preference for
0+ InterLATA Calls

CC Docket No. 92-77

**ERRATA TO REPLY COMMENTS OF
CITIZENS UNITED FOR REHABILITATION OF ERRANTS**

Citizens United For Rehabilitation of Errants ("C.U.R.E."), by its counsel, hereby submits this Errata to the August 16, 1996 Reply Comments filed by C.U.R.E. in the above-captioned proceeding. Specifically, Exhibits 2 and 3 of the Reply Comments were inadvertently omitted from the Reply Comments filed with the Commission on August 16. Additionally, the Reply Comments filed on August 16 contained some minor typographical errors.

Transmitted herewith for filing with the Commission is a revised copy of the Reply Comments that 1) provides the missing Exhibits 2 and 3; and 2) corrects the minor typographical errors contained in C.U.R.E.'s original submission. A copy of the revised

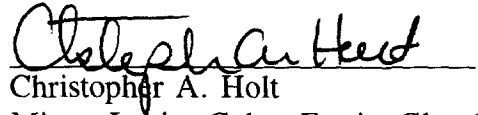
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Reply Comments is being mailed to the parties shown on the attached service list.

Respectfully submitted,

**CITIZENS UNITED FOR
REHABILITATION OF ERRANTS**

A handwritten signature in dark ink, appearing to read "Christopher A. Holt", is written over a horizontal line.

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Dated: August 21, 1996

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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CC Docket No. 92-77

**REPLY COMMENTS OF
CITIZENS UNITED FOR REHABILITATION OF ERRANTS**

Citizens United For Rehabilitation of Errants ("C.U.R.E."), by its attorneys, hereby respectfully submits these Reply Comments in response to the Commission's Second Further Notice of Proposed Rulemaking in the above-captioned proceeding on the issue of whether there exist alternatives to billed party preference ("BPP") that could be applied to remedy the high cost of calls originating from inmate-only telephones at correctional institutions.^{1/}

INTRODUCTION

In its Comments, C.U.R.E. reiterated its concern that the families and friends of inmates are being forced to pay oppressive rates and charges to receive collect calls from loved ones in correctional institutions.^{2/} C.U.R.E. also expressed its continuing support for

^{1/} In the Matter of Billed Party Preference for InterLata O+ Calls, CC Docket No. 92-77, Second Further Notice of Proposed Rulemaking, FCC 96-253, released June 6, 1996 ("Second Further NPRM").

^{2/} See Comments of Citizens United For Rehabilitation of Errants on Second Further Notice of Proposed Rulemaking, CC Docket No. 92-77, (filed July 16, 1995).

BPP as the best means of promoting reduced rates and improved services for inmate-phone ratepayers, but acknowledged that the issue of BPP will be given further consideration in relation to the implementation of number portability.^{3/} Thus, to ensure that inmate families and friends would not continue to suffer from oppressive rates prior to the advent of BPP, C.U.R.E. urged the Commission to implement mandatory, self-executing rate-caps and other operational measures as interim alternatives to BPP.

DISCUSSION

The concept of mandatory rate restrictions has been embraced by several major providers of inmate telecommunications services, including a national coalition of companies that provide inmate calling services.^{4/} Several commentators, however, have suggested that FCC imposed rate restrictions are not necessary because ceilings have already been imposed by many states. Indeed, one provider of inmate services has suggested that if the FCC adopts a uniform nationwide rate benchmark as an alternative to BPP, it should do so not for the purpose of protecting inmate-telephone ratepayers against excessive rates, but rather to enhance inmate OSP revenues by "prohibiting states from imposing rate ceilings for intrastate calls, including local, that fall below the interstate benchmark rate."^{5/}

In view of the foregoing comments, C.U.R.E. has become concerned that under the guise of rate reform, some inmate OSPs may be seeking to use this proceeding to establish

^{3/} C.U.R.E. Comments at 5.

^{4/} See, e.g., Comments of Gateway Technologies, Inc. on Second Further Notice of Proposed Rulemaking, CC Docket No. 92-77 (dated July 17, 1996) ("Gateway"); Comments of Inmate Calling Services Providers Coalition, CC Docket No. 92-77 (dated July 17, 1996) (the "Coalition").

^{5/} See Comments of Invision Telecom, Inc. to Second Further Notice of Proposed Rulemaking, CC Docket No. 92-77 (filed July 17, 1996) ("Invision Comments") at 10.

an excessive FCC imposed rate "ceiling" that could be used to argue at the state level that any lower intrastate rate restrictions are either preempted by federal regulation or should be adjusted upwards to reflect the uniform national rate. Plainly, either result would be antithetical to the goal of reducing the oppressive rates and charges faced by the recipients of collect calls from correctional facilities.

Prompted by these concerns, C.U.R.E. has conducted a series of informal telephone interviews with state regulators to ascertain the prevalence and scope of inmate calling services rate restrictions among the various states.^{6/} Attached hereto as Exhibit 1 is a summary of the results.^{7/} Of the twenty-eight states from which C.U.R.E. was able to gather information prior to the date of this Reply, eight did not currently have in place any restrictions on inmate telephone rates. Twenty of the states were identified as having some form of rate restriction on all intrastate, interLata collect calling rates, including prison telephones. Of the twenty states with some form of rate restriction, nine appear to have capped their intrastate, intraLata collect-calling rates at those of AT&T.^{8/} Two of the states,

^{6/} In stark contrast, not one of the inmate OSPs who are seeking a special exemption from BPP has sought to assist the Commission by providing specific information regarding the status of rate protections that have been imposed by the states. In view of the fact that many of those companies operate nationally and, indeed, some are participating as part of a national coalition, C.U.R.E. assumes that this information could have been gathered readily by those companies, each of whom have resources vastly superior to those available to C.U.R.E.

^{7/} C.U.R.E. is still receiving information from its state contacts, and will supplement the attached summary as appropriate. Unfortunately, given C.U.R.E.'s limited resources and the relatively short amount of time available before the instant Reply Comments were due, C.U.R.E. was unable to contact regulatory officials from all fifty states.

^{8/} As explained in the attached summary, C.U.R.E. does not believe that these states draw any distinction between AT&T's standard collect calling rates and its specialized rates for inmate calling services.

both within single Latas, cap their rates at those of the incumbent local exchange carrier.

Five of the states impose rate caps according to state specific formulas.

In addition to rate caps, the Public Utilities Commission in at least one of the states, Minnesota, has imposed other operating requirements on alternative operator service providers engaged in the provision of inmate-only service.^{9/} These requirements include: 1) an obligation to file and update tariffs or price lists, 2) a duty to audibly and distinctly state their identity at the beginning of each call, with a second identification before connecting the call or before a charge is incurred by the end-user, 3) an obligation to bill the end-user within 90 days of the date of the call, 4) a duty to submit sample bills for review by the Department, 5) an obligation to refrain from billing charges for unanswered calls, and 6) an obligation to provide end-users information regarding rates to the extent technologically feasible.

When considering the issue of state imposed rate caps, it is important to bear in mind that these rate restrictions, to the extent they actually provide any protections, are only applicable to rates associated with intrastate calls; they do not afford any protection from excessive rates associated with long distance calls from state to state. Indeed, Invision has admitted that "[h]istorically, in an effort to balance the negative effect of unfair intrastate rate caps, inmate telephone service providers may have been forced to increase their interstate rates in order to stay in business."^{10/} Stated another way, some inmate OSPs charge even more excessive rates for interstate calling services because they are prohibited from doing so

^{9/} See Orders attached hereto as Exhibits 2 and 3.

^{10/} Invision Comments at 8.

by state restrictions on intrastate calling rates. The imposition of a rate-cap in this proceeding would correct this disparity.


Finally, to correct any misimpression that may have been caused by the comments of Gateway,^{11/} C.U.R.E. has not endorsed Gateway's rate-cap proposal as a viable alternative to BPP. Rather, C.U.R.E. has endorsed the concept of a rate cap as an interim alternative to BPP, in the hope that swift Commission action will bring rate relief while BPP is given further consideration. C.U.R.E. is presently assessing the rate restrictions that have been imposed by the various states, and will be developing a specific proposal for the Commission's consideration. C.U.R.E. presently expects that this proposal will incorporate various attributes from rate-restrictions imposed by the various states, including specific restrictions on operator surcharges (which often constitute the bulk of the charge to the end-user, particularly when several calls are placed in secession) and restrictions on the operator's ability to pass through commission payments, which needlessly drive up rates. Significantly, rate restrictions imposed by the various states do not seem to have dampened inmate OSP competition, despite the fact that the vast majority of inmate calling traffic is intrastate. C.U.R.E. does not expect that a rate-ceiling adopted in this proceeding would dampen competition either.

^{11/} Gateway Comments at 8.

CONCLUSION

In considering the issue of establishing a uniform national rate-cap for interLata, interstate inmate-telephone rates, C.U.R.E. urges the Commission to make clear that it is not preempting state rate-restrictions that may be lower than the national rate, and that states should not view the national cap as an invitation to raise state rates. C.U.R.E. looks forward to working with the Commission to fashion a self-enforcing rate-cap that will help to reign in the oppressively high cost of inmate-telephone rates.

CITIZENS UNITED FOR REHABILITATION OF ERRANTS



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August 16, 1996

EXHIBIT 2

**ORDER SETTING REGULATORY REQUIREMENTS FOR STORE
AND FORWARD AND INMATE-ONLY SERVICE PROVIDERS**

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Don Storm
Tom Burton
Cynthia A. Kitlinski
Doe Knaak
Norma McKanna

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of a Commission
Investigation into the Use of
"Store and Forward" Technology
in Telephone Equipment Operated
in Minnesota

ISSUE DATE: July 9, 1992

DOCKET NO. P-999/C-91-22

ORDER SETTING REGULATORY
REQUIREMENTS FOR STORE AND
FORWARD AND INMATE-ONLY SERVICE
PROVIDERS

PROCEDURAL HISTORY

I. PROCEEDINGS TO DATE

On January 14, 1991, the Commission received a petition from the Minnesota Independent Payphone Association (MIPA), an association of businesses which own and operate pay telephones in Minnesota. In the petition, MIPA asked the Commission to clarify that pay telephone providers who have COCOT (customer-owned coin operated telephone, or payphone) authority do not need further authority to provide telephone service with store and forward technology. In the alternative, MIPA asked the Commission to establish a docket to examine which, if any, further regulations must be placed on payphone providers who offer store and forward technology. The present docket, which extends to all store and forward providers, is a response to MIPA's petition.

On September 20, 1991, the Department of Public Service (the Department) filed its report in this matter. The Department recommended that the Commission establish additional certification requirements for payphone providers who offer store and forward technology. The Department also recommended that the Commission apply to store and forward service providers any requirements imposed on alternative operator service providers in ongoing Commission Docket No. P-999/CI-88-917 (the AOS Docket).¹

¹ In the Matter of the Applications for Authority to Provide
Alternative Operator Services in Minnesota

On November 19, 1991, the Commission issued its ORDER SETTING REGULATORY REQUIREMENTS FOR OPERATOR SERVICE FROM TRANSIENT LOCATIONS in the aforementioned AOS Docket.

On November 25, 1991, the Commission issued its Notice Soliciting Comments in the present docket. The following parties responded with filed comments: MIPA; AT&T Communications of the Midwest, Inc. (AT&T); Intellicall, Inc. (Intellicall); Intelliphone, Inc. (Intelliphone); Lakedale Telephone Company (Lakedale); GTE Minnesota and GTE North Incorporated (together, GTE); Kantel Communications, Inc. (Kantel); US WEST Communications, Inc. (US WEST); and Mr. Peter Dodge.

On March 25, 1992, the Residential Utilities Division of the Office of Attorney General (RUD-OAG) filed comments.

On March 25, 1992, the Commission issued its ORDER AFTER RECONSIDERATION in the AOS Docket.

On March 31, 1992, the Commission issued its second Notice Soliciting Comments in the present docket. The following parties submitted further comments: the Department; AT&T; US WEST; and MIPA.

The Commission met to consider the matter on June 4, 1992.

FINDINGS AND CONCLUSIONS

II. STORE AND FORWARD TECHNOLOGY

Store and forward technology allows a new generation of telephones equipped with certain computer chips to store billing information. A customer can use such a telephone to charge the cost of a call to a credit card, without the use of a "live" operator or a local exchange's or interexchange carrier's automated calling card system. Some telephones equipped with store and forward technology also enable a customer to place a collect call without the assistance of a live operator.

III. STORE AND FORWARD AND ALTERNATIVE OPERATOR SERVICE

Store and forward technology comes under the Commission's definition of "operator service." In its November 19, 1991 Order in the AOS Docket, the Commission defined operator service as follows:

"Operator service" refers to any service using a live operator or mechanical (automated) operator function for the

handling of a telephone service, such as toll calling via collect, third party billing, and calling or credit card services. Order at p. 1.

Store and forward service is closely related to alternative operator service (AOS), a subcategory of operator service. AOS is defined in the Commission's November 19, 1991 Order as follows:

The Commission finds that alternative operator services are operator-assisted long distance services provided to transient end-users at call aggregators' locations.

Order at p. 6

Store and forward service is mechanically operator-assisted service. It is usually provided to transient end-users through payphones, which are also the call aggregators' locations. It often, though not always, consists of long distance service. Store and forward service is thus closely tied to AOS.

IV. COMMISSION TREATMENT OF AOS

On November 19, 1991, the Commission issued its ORDER SETTING REGULATORY REQUIREMENTS FOR OPERATOR SERVICE FROM TRANSIENT LOCATIONS in the AOS Docket. In that Order, the Commission established the permanent conditions under which AOS providers must provide service in Minnesota. The Commission adopted a number of requirements first established by the Federal Communications Commission (FCC), and also adopted further protective measures. The conditions imposed by the Commission's November 19, 1991 Order are found in that Order's ordering paragraphs at Attachment A.

On March 25, 1992, the Commission issued its ORDER AFTER RECONSIDERATION in the AOS Docket. In that Order the Commission clarified several of the requirements of the November 19 Order. The ordering paragraphs of the ORDER AFTER RECONSIDERATION are found at Attachment B.

The Commission issued a final clarification of one AOS requirement in an Erratum Notice dated May 1, 1992 and found at Attachment C.

V. STORE AND FORWARD ISSUES BEFORE THE COMMISSION

A. Separate Certification for Store and Forward

Positions of the Parties

Prior to 1991, some payphone providers with store and forward capability applied for and received payphone authority which did not specifically grant or deny store and forward authority. Since 1991, parties applying for payphone authority have been granted certificates which specifically preclude the use of store and forward technology, pending the regulatory resolution of store and forward issues.

In its September 20, 1991 report, the Department stated its belief that certification beyond normal payphone authority is necessary for providers of store and forward technology. No party who submitted comments disagreed with the Department's position.

Commission Analysis

The Commission agrees with the Department that certification beyond payphone authority is necessary for store and forward providers. Payphone authority is meant to extend to the provision of basic telephone service from payphones: connection and transmission of the message. Payphone certification does not include the authority to provide operator services, which are the basis of store and forward technology. The Commission notes that the FCC has found that store and forward is an operator service and must be regulated as such. The Commission finds that payphone certification is not sufficient authority for the provision of store and forward service, and will require additional certification for store and forward.

The record is unclear as to whether providers of non-pay telephone service also have the technology to provide store and forward service. It seems reasonable to speculate that in this increasingly sophisticated area such service will be available in the future if it is not available now. The Commission finds no reason to distinguish in its analysis between payphone and non-payphone store and forward service. Either involves mechanically operator-assisted service provided to a transient end-user from a call aggregator's location, which is the specially equipped telephone. The Commission therefore finds that non-payphone providers who wish to provide store and forward service must obtain specific store and forward certification and must abide by any attendant requirements.

Although the Commission is establishing a certification requirement for parties who wish to provide store and forward service, this requirement will not extend to local exchange companies (LECs) with certificates of territorial authority. Under Minn. Stat. § 216B.16, such a certificate grants the LEC the exclusive authority to provide local service within the exchange boundary. Inherent in that authority is the ability to provide to subscribers whatever telephone service is technologically available, upon notification to or approval by

the Commission. The authority of the territorial certificate extends to the provision of operator service, whether mechanical or live. No special certification is therefore necessary in order for LECs to provide store and forward service.

Another class of store and forward providers who will not be subject to certification requirements is found under Minn. Stat. § 237.067. This law exempts hotels, motels, restaurants and similar establishments who provide telephone service from most regulation under Chapter 237 of the Minnesota Statutes. The statute does require that these establishments charge rates which are fair and reasonable under Minn. Stat. § 237.06, provide notice of charges and service providers to patrons, and remain subject to the complaint and investigation procedures of Minn. Stat. § 237.081. Provided that the exempt establishments comply with these regulatory criteria, they will not be subject to regulatory requirements for their provision of store and forward service, including the certification process. The Commission notes, however, that the owners of payphones located within the exempt establishments are not exempt from certification requirements.

Finally, providers who hold previous AOS authority will not need to obtain further certification to provide store and forward service. AOS certification extends to most types of operator service, including store and forward.

B. Treatment of Prior Store and Forward Providers

The Department estimated that there are about twenty payphone providers who are currently using store and forward technology. These providers are presumably acting pursuant to payphone certification obtained prior to 1991, when the Commission specifically excluded store and forward authority from payphone certification. Some parties informally questioned if such providers could be "grandfathered" into Commission requirements for store and forward service. If grandfathering were allowed, parties who were previously offering the service would be exempt from certification requirements; only new providers would be required to obtain certification.

Positions of the Parties

None of the parties specifically addressed the issue of the certification necessary for companies already providing store and forward service. No party expressed formal opposition to a requirement that every store and forward provider obtain a certificate of authority.

Commission Analysis

The Commission finds that it is desirable to require every store and forward provider, including any who may currently be

providing service under payphone authority, to obtain specific store and forward certification. This process will provide the Commission the best possible means of monitoring store and forward providers. It will also help provide a level playing field for all providers, including those previously providing service without specific authority.

The Commission notes that the November 19, 1991 AOS Order required all AOS providers to come before the Commission with certain compliance filings in order to obtain permanent authority. This requirement included AOS providers who had previously obtained interim authority from the Commission. The Commission finds that the same process should apply in the case of store and forward service. All parties who wish to provide store and forward service, including those already operating without specific authority, will be obliged to come before the Commission to seek store and forward certification.

The Commission believes that the process of applying for store and forward certification should not be unduly burdensome. The Commission notes that several parties, including MIPA, recommended that a one-page application for store and forward service be developed. The Commission encourages industry representatives to work with the Department and with Commission staff to develop such a document. A simplified form could allow parties to apply for authority to provide payphone service, store and forward service, or both.

C. Regulatory Requirements for Store and Forward Providers

Positions of the Parties

The Department recommended that in most cases the requirements imposed upon AOS providers should also be extended to store and forward providers. The Department agreed with Kantel, MIPA, Intellicall and AT&T that certain exceptions should be made for the provision of inmate-only telephone service.

There was general agreement among the parties that the application of the AOS requirements was appropriate, except in the case of inmate-only service. In addition, Intellicall and MIPA recommended that the Commission waive the requirements of Order paragraphs 1 (e) and 1 (g) of the Commission's November 19 AOS Order.

Paragraph 1 (e) states: "AOS providers are required to refrain from billing charges for unanswered calls." Intellicall and MIPA argued that store and forward providers are technologically unable to distinguish if calls have or have not been answered. Although providers can use a timing device to "guess" if a call

has been answered, only a live operator can accurately provide the line-side supervision necessary to avoid billing for unanswered calls.

Intellicall and MIPA also requested a waiver from the AOS Order paragraph 1 (g), which states:

AOS providers are required to assure by contract or tariff that call aggregators comply with the provisions of this Order, which will include posting, on or near the telephone, in plain view of customers, the following information:

- i. the name, address and toll-free telephone number of the provider of operator services;
- ii. a written disclosure that the rates for all operator-assisted calls are available upon request;
- iii. the fact that end-users have a right to obtain access to the carrier of their choice and may contact their preferred carrier for information on accessing that carrier's service using that telephone. AOS providers shall, upon request by the end-user, provide information regarding access to an alternative carrier;
- iv. a message including the name, address and telephone number of the Office of Consumer Affairs of the Minnesota Public Utilities Commission, as follows:

Complaints regarding rates for calls within Minnesota should be directed to:

Minnesota Public Utilities Commission
Office of Consumer Affairs
780 American Center Building
150 East Kellogg Boulevard
St. Paul, Minnesota 55101
(612) 297-1079

Intellicall and MIPA argued that, in the case of store and forward service, the call provider also functions as the call-aggregator. The requirement that AOS providers monitor call-aggregators by contract or tariff was therefore unnecessary.

While the RUD-OAG generally agreed with the comments of the Department, the RUD-OAG also recommended certain other requirements discussed later in this Order. The requirements included a price cap for local calls of \$0.25, a rate notification process, and refunds for service provided without authority or in excess of authorized rates.

Commission Analysis

The Commission agrees with the commenting parties that the requirements established for AOS providers are appropriately applied to providers of store and forward service. As has been discussed previously in this Order, the two telephone service categories are closely related. Both involve operator-assisted services provided to transient end-users at call aggregators' locations. The main distinctions are not significant in terms of regulatory policy: store and forward uses mechanical operator assistance, and store and forward call aggregators' locations are the specially equipped telephones themselves.

The reasoning which justifies protections for AOS end-users also applies to customers of store and forward service. Store and forward customers are transient, and thus are unable to choose the provider who assists them in their call. Like AOS end-users, they are captive customers who need Commission protection to ensure that rates, terms and service are fair and reasonable.

With the exception of inmate-only service and two subdivisions of the AOS requirements discussed below, the Commission finds that the requirements imposed by the Commission upon AOS providers will apply to store and forward service providers.

The Commission agrees with Intellicall and MIPA that part of the requirements of Order paragraph 1 (g) of the November 19 AOS Order should be waived. Since both the functions of call aggregator and operator service provider reside in the store and forward telephone itself, it is not necessary that the operator service provider monitor the call aggregator by contract or tariff. The Commission will not, however, waive the rest of the requirements of Order paragraph 1 (g). The posting requirements enumerated in that section will remain in force.

The Commission does not accept the parties' argument that the requirement of Order paragraph 1 (e) should be waived. Limiting billing to those calls which are answered is an important consumer protection which should not be removed. It is especially important that a captive end-user not be charged for unsuccessful attempts to place a call. Particularly in the case of payphones, an end-user is often placing a call which is significant or urgent enough that it cannot wait to be placed from the end-user's own telephone. It would not be in the public interest to allow billing for unanswered calls in such a case. The Commission finds that the requirement of Order paragraph 1 (e) will apply to store and forward providers. The providers must use such technology as is currently available to refrain from billing for unanswered calls, until further technology is perfected.

D. Capping Rates for Local Calls

The RUD-OAG urged the Commission to cap local calling rates for store and forward providers at \$0.25 per call, and to order refunds for any customers who have been overcharged. The Department recommended that the Commission open an investigation to determine the appropriate rate for automated, operator-assisted local calls from payphones. In the alternative, the Department asked the Commission to require store and forward providers to limit their rates for local calls to those charged by a dominant carrier for a similar call. US WEST objected to the RUD-OAG's proposed local rate cap of \$0.25. US WEST noted that it is currently authorized by the Commission to charge the following rates for operator service: \$1.20 for station-to-station, \$2.05 for person-to-person, and \$0.55 for billing to a calling card or other means. These rates are in addition to the message rate of \$0.25.

Commission Analysis

While it is true that there is a \$0.25 message rate limit for a local call from a payphone, it is also true that local exchange companies are tariffed to charge additionally for operator assistance for local calls. As an example, US WEST is authorized to charge \$1.20 for its live station-to-station operator assistance in a local call, and United Telephone Company is authorized to charge \$1.25 for a similar service. The Commission finds that basic fairness requires that store and forward providers also be allowed to charge for their operator assistance. As has been established, the main difference between store and forward operator service and other types of operator service is the reliance on mechanical rather than live assistance. The Commission does not see a need to open an investigation to establish the proper rate cap for store and forward service. The Commission will limit the rate for local operator service by store and forward providers to the highest rate approved by the Commission for similar calls. This is in addition to the message rate cap, which remains at \$0.25 per call. With this provision, end-users will be protected from possible overcharging by store and forward providers, and store and forward providers will not be at a disadvantage compared to other operator assistance providers.

The RUD-OAG cited several consumer complaints of overbilling for store and forward service. It is unclear if any store and forward provider charged over the prevailing rate of the dominant carrier. There is no reference to where, how, or when any overbilling by a store and forward provider occurred. Since there are no clear allegations of overbilling, the Commission will not take up the question of refunding at this time.

E. Rate Notification to Call Recipients

Positions of the Parties

The RUD-OAG recommended that store and forward providers be required to identify themselves to collect call recipients and to provide information regarding rates before any charge is incurred. In support of its recommendation, the RUD-OAG cited several complaints of collect call recipients who received extremely high telephone bills from store and forward providers. The RUD-OAG reasoned that branding and rate notification are necessary in order for the recipient of a collect call to make an informed choice to accept or reject the call.

The Department stated that there was no need for a special identification requirement for store and forward providers because adoption of the AOS requirements would mean that store and forward providers must brand their calls. Because store and forward service uses mechanical rather than live operator assistance, the Department did not agree that recipients of collect store and forward calls could receive rate information prior to incurring charges.

AT&T stated that the RUD-OAG's provider identification and rate notification issues were either already covered in the AOS requirements or were beyond the scope of the current proceeding.

Commission Analysis

The Commission finds that the requirement of branding has been settled in the Commission's AOS requirements, which the Commission is now adopting for store and forward service. In ordering paragraph 1 (a) of the November 19, 1991 AOS Order and the May 1, 1991 Erratum Notice, the following branding requirement was established:

AOS providers are required to:

- a. audibly and distinctly state their identity at the beginning of each call, with a second identification before connecting the call or before a charge is incurred by the end-user. Minnesota ILECs and LECs shall have six months from the date of this Order in which to initiate this process;

Thus, the RUD-OAG's concern regarding provider identification is answered. As must providers of alternative operator services, store and forward providers must double brand their calls.

The RUD-OAG also argued that store and forward providers should be required to notify collect call recipients of applicable rates before charges are incurred. Rate notification is covered in ordering paragraph 1 (c) of the November 19, 1991 AOS Order:

AOS providers are required to:

- c. immediately disclose, upon request and at no charge to the end-user, the rates or charges for a call, how the charges will be billed or collected, and how complaints concerning any charges or practices will be resolved;

The Commission agrees that an understanding of applicable rates is very important to the recipient of a collect call. A problem arises, however, from the nature of store and forward technology. It is not possible for the call recipient to request rate information, since the operator service is mechanical, not live. Some automated operator service systems may be capable of providing information regarding charges for local service, but rate quotes for long distance service are not feasible at this time.

The Commission will therefore require that parties offering store and forward service provide end-users rate information to the extent that it is technologically feasible to do so. As an example, if the provider is capable of informing the end-user of the charge for operator-assisted local calls, the provider must provide the information. The Commission finds that this requirement strikes a balance between the needs of end-users, particularly collect call recipients, and the technological limitations of store and forward service.

F. Regulation of Inmate-only Telephone Service

The Service

Inmate facilities such as jails and prisons often provide a specialized form of telephone service for the inmates. Such locations often allow inmates access to special telephones which are equipped to accommodate only the dialing of collect calls. Inmate-only telephone service is meant to reduce the risk of fraud and to promote security in the institutions.

Although inmate-only telephone service often involves the use of store and forward technology, the record is unclear if inmate-only service is always confined to store and forward service. It is reasonable to assume that if inmate-only telephone service is not now provided in some instances by live operator assistance, it may be in the future. Whether provided by automatic or live means, operator service for inmates is subject to the same special issues, problems and concerns. The Commission will therefore apply its findings regarding inmate-only service to any form of such operator service, whether live or store and forward.

Positions of the Parties

US WEST, Kantel, AT&T, MIPA and Intellicall argued that companies should be exempt from the AOS requirements when providing inmate-

only telephone service. These parties reasoned that inmate-only service involves special circumstances which justify waiver from requirements applied to other types of operator service. Among other special circumstances, the parties cited time restrictions on prisoners' calls, security requirements which forbid the posting of notices near telephones, and the special necessity for fraud protection. The parties noted that the FCC has exempted inmate-only operator service from its operator service rules.

The Department recommended that the Commission exempt inmate-only telephone service from certain AOS requirements. The Department agreed with many of the arguments for exemption advanced by other commenting parties.

The RUD-OAG urged the Commission to apply the branding requirement to inmate-only service, and to require posting of information regarding the provider's identity and rates.

Commission Analysis

The Commission acknowledges that inmate-only telephone service is a unique area which demands specialized regulatory treatment. Some of the Commission's AOS requirements are either inappropriate or inapplicable to inmate-only service.

The AOS prohibition against blocking is an example of a requirement which is inappropriate for inmate-only service. Inmates are not allowed to have money or credit cards for telephone use, so it is reasonable to protect carriers and other parties from fraud by blocking access through "950," "800," or "10XXX" numbers.

Posting of identity or rate information is another AOS protection which is inappropriate for inmate-only service. Prisons and jails restrict posting of signs for security reasons; it would be unreasonable to require providers to post signs which would be contrary to the policy of the institutions.

Other AOS requirements are not relevant to inmate-only service because it is limited to collect calling. The requirement that AOS providers transfer emergency calls is an example of a requirement which is irrelevant to inmate-only service.

While the Commission recognizes that certain AOS requirements will not apply to inmate-only service, the Commission also remains aware that rate protection is extremely important to the recipients of collect calls from inmates. The special need to communicate with inmates, plus the frequency of some prisoners' calls due to time limitations, can make some call recipients especially vulnerable to high phone bills. In order to provide rate protection, the Commission will cap local charges as previously discussed in this Order, and will also place a rate cap on intrastate long distance call from inmate-only telephones.

Capping rates for intrastate long distance calls at AT&T's rates is an appropriate rate protection because blocking access to alternative providers will not be prohibited in the case of store and forward service.

Because of the special characteristics of inmate-only service, and the need for rate protection for call recipients, the Commission will waive all established AOS requirements for inmate-only service, except for the following requirements:

1. Inmate-only service providers must obtain the certification necessary for authority to provide operator service and payphone service.
2. Inmate-only service providers must file and update the appropriate tariff or price list with the Commission.
3. Total rates charged by inmate-only service providers for intrastate long distance calls must not exceed AT&T's rates for similar calls.

When all administrative reviews of this proceeding are complete, any provider who wishes to change these rates may petition to do so pursuant to the applicable Minnesota statutes.

4. Rates charged by inmate-only service providers for local calls must not exceed the highest rate approved by the Commission for similar calls.
5. Within six months of the date of this Order, inmate-only service providers must audibly and distinctly state their identity at the beginning of each call, with a second identification before connecting the call or before a charge is incurred by the end-user.
6. Inmate-only service providers must bill the end-user (the collect call recipient) within 90 days of the date the collect call was accepted.
7. At the time of filing their applications for authority, inmate-only service providers must submit samples of bills that meet billing requirements adopted in this Order.
8. Inmate-only service providers must refrain from billing charges for unanswered calls.
9. Inmate-only service providers must provide end-users information regarding rates to the extent that it is technologically feasible.

ORDER

1. All providers of store and forward service, including those currently providing service under payphone authority, must apply to the Commission for certification to provide store and forward service. Exceptions to this requirement are:
 - a. Local exchange carriers with certificates of territorial authority;
 - b. Providers who are exempt from certification requirements pursuant to Minn. Stat. § 237.067, provided such exempt establishments charge rates which are fair and reasonable under Minn. Stat. § 237.06, provide notice of charges and service providers to patrons, and remain subject to the complaint and investigation procedures of Minn. Stat. § 237.081;
 - c. Holders of AOS certification.
2. Except for inmate-only service providers, all providers of store and forward service must abide by the requirements of the Commission's AOS Orders dated November 19, 1991, March 25, 1992, and Erratum Notice dated May 1, 1992, with the following exception:

Store and forward providers are not required to abide by the requirement that the service provider monitor the call aggregator by contract or tariff, found in ordering Paragraph No. 1 (g) of the November 19, 1991 AOS Order. All other provisions of that subsection shall be in force and effect for store and forward providers.
3. Rates charged by store and forward service providers for local operator service shall be limited to the highest rate approved by the Commission for similar calls.
4. Store and forward service providers shall provide end-users with information on applicable rates to the extent it is technologically feasible to do so.
5. All AOS requirements are waived for providers of inmate-only telephone service, except for the nine requirements listed above in this Order.
6. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION
Janet E. Bongile, for:
Richard R. Lancaster
Executive Secretary

(S E A L)

EXHIBIT 3

ORDER AFTER RECONSIDERATION